

CITY COUNCIL OF ALEXANDRIA, VIRGINIA  
Regular Meeting – December 11, 2001  
Verbatim Transcript of Oral Presentation (a)

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ORAL PRESENTATION (a) by Mayor Donley with Council discussion on Charter Bill amendment relating the election of the school board..

Mayor: I want to bring up an item that Council discussed at its last meeting and that was the amendment to our Charter Bill. Now, Council did adopt this by, if my recollection is correct, by a 4-to-3 vote. But, I wanted to bring it up tonight because I have had a couple of discussions with a number, oh, I'm sorry, 6-to-1, that's correct, I'm sorry. We had a lot of discussion amongst some of the Members about, you know, what the amendment to the Charter Bill does; some options in terms of trying to get more information out into the community; and also, to potentially develop a system to advise us. The options, very quickly I think, are sort of three. Number one, we can continue the path that we are going which is, you know, full speed ahead on the Charter Bill just like we decided before. Number two would be to go ahead and continue the amendment to the Charter Bill which gives in sum would allow the local governing body to determine the method of election for school board in the future. We'll get into some of the implications in a minute. But also, my recommendation is to appoint an advisory task force to the Council that would consist of five representatives: one from the Electoral Board, one from the League of Women Voters, a representative of the PTA Council since we're talking about the school board elections, a representative from the NAACP, and a representative of the Tenant Workers' Support Committee. And specifically those groups and I suggest this because the task force needs to be small in order to get work done. And I'm specifically excluding elected officials, not because I don't think they are good guys, I'm one of them, but because we are talking about election process and everything else and I don't want to have any appearance of impropriety. The third option that is available, I think, to the Council would be to just rescind our amendment to the charter at least as it relates to the school board election process. And the reason why we were seeking this flexibility not because we were, and I want to emphasize this, not because we were pushing or trying to promote one method of election

over another. It was merely to bring the decision to the local body rather than being required to go to Richmond to seek Richmond's approval on how we elect the school board here in Alexandria. Number one, it allows us to react a little bit more timely. Number two, it also gives us local flexibility and local accountability. And number three, because of the quirk in the election laws, we would need to get the charter amended this year if we wanted to, and that's a big if, but if we wanted to have any effect or any change on the May 2003 elections. If we don't have the Charter Bill amended this session, we could potentially amend it in the legislative year 2003, but we would not be able to get any kind of change done in order to effect the school board elections in May 2003. Those are the three options as I see them right now and because this has generated a fair amount of conversation you know amongst certainly the Members, but also in the community, and I will add that nobody in the community has contacted me, but that doesn't mean that they aren't talking about it and trying to figure out what the heck we are trying to do here. The last point I want to make is that there is no hidden agenda. I don't anyone is trying to push one method of election over another, this is purely at least in my estimation, an issue of local government authority, and I bring it up now because I want Council to be very clear in what it intends to do, but also I raise the suggestion that we appoint a task force that is advisory to the Council and can go out and hold community meetings, take a look at some of the implications of not only the Charter change but potentially the redistricting that we're going to have to experience at least, excuse me, the adjustment electoral boundaries, provide some advice and counsel to us on that matter as well. So, that's the issue as I see it. I would be happy to entertain some thoughts from some Members about how we want to proceed. I know that there are a number of questions out there about what happens when and when you can do this and after a Census and all that jazz. We do have representatives from the Electoral Board staff here tonight, and we also have the City Manager and the City Attorney. So, where do you want to go? Anybody want to talk?

Euille: Mr. Mayor.

Mayor: Mr. Euille.

Euille: I certainly cannot disagree with you that, and I don't think anyone in the community would ever disagree that we, in Alexandria, would not like to have local control over the election process for not only the school board, but we want election, I mean control and authority over a lot of matters that are important to us. So, I don't think that is really the issue, um, that at

least in my mind that's a question, but what puzzles me we did then about a week whenever we had our last meeting and discussion on this matter in terms of the process and then when citizens in the community started hearing that there was this request for a Charter amendment that would affect school board election processes, because the election of the school board has always been a very sensitive issue here citywide, uh, red flags go up in terms of why, why the timing, why not formal opportunities to participate in the discussion process, know the facts and so forth. And, yes, there was a docketed item at a legislative meeting. It was approved by Council to set it for public hearing, but as I stated at the last meeting, this was an item that was packaged as part of an overall legislative package, and it did not rise to the attention of those of us or others in the community that follow these matters that this was something that really needed to be seriously looked at. And, um, so subsequent to the meeting and the vote, the 6-to-1 vote, to add this as part of the Charter amendment procedure, inquiries have been raised in the community by several people wanting to know why, you know, what opportunities would they have to participate in the process and weigh in pro or con. But, my real overall concern about this is, and it's not just this matter dealing with the school board election, um but any matter or any issue that we, the Council, elect to make as part of our legislative to send to Richmond, and we're asking our hired, elected delegation to act on our behalf, is to not put ourselves or them in an embarrassing situation of advocating for something and then it goes, they take it to Richmond and then oppo, significant, some level of opposition whether significant or not and then allegations or innuendoes are made that we didn't know about this, there was, you know, we didn't have the opportunity to offer comments. I just don't think that's wise and so my judgment tells me the best thing to do is to slow the train down and let's see if we can't do what normally would be the right process and that is to invite participation and know, and the other thing that's really baffling, I don't want to say baffling, or puzzling is the fact, um, apparently there is some in addition to the redistricting that was done by the legislature statewide that warrants us having to take a look at our districts here and boundaries here in the City of Alexandria, but there's also the impact of the 2000 Census results. Ironically, as elected officials, as Council, body of the whole and/or the school board, for that matter, there's information out there that we've never seen, we haven't benefitted from. And, so, it's very hard to try to tell John Q. Public why we are doing something other than the fact, again that one will ever dispute or argue that we're asking for sole, you know, to give us sole authority to govern our school board election process, but the fact of the matter is that we, you know, we don't really know what, you

know, what the facts of the matter are and what's driving this need. So, again, I err, I want us to err on the side of caution in that whatever we ultimately decide on and the approach we use, it's reasonable, it's fair, it's representative of having support from the broader community and that we're not doing something that will cause an embarrassment to us in the end. So, but there are some questions, the more I've talked to City staff, the more I've talked to even some of my colleagues on the Council, the more I've talked to others in the community, I get, I'm in a fog because there are drop dead target dates and some other things that, you know, really haven't come to discussion early on and then today I'm learning that, you know, a couple, a meeting ago we were told that December 31<sup>st</sup>, we needed to do something by December 31<sup>st</sup> and that was changed to December 10<sup>th</sup>, and then someone, one of my colleagues made a statement that well, if we don't do anything now, then we can't do any changes until the next Census, ten years from now, and then that was refuted by, I believe, the City Attorney that says no there's flexibility, you can do it anytime you want, but you certainly miss out on the opportunity for 2006 and so forth, and maybe beyond, but now, you know, I get a memo or something today, well maybe, not until 2015, and we don't need to be put into that posture. We need to know, not just us, but the general public just need to know, you know, precisely what, what are the facts and what are the dates, and then we can certainly act very positively and responsibly.

Mayor: Yeah, I do think clearly if we don't do anything with the Charter Bill this year, you know, and I'll ask the City Attorney to affirm this, you know you can't do anything until at least 2006. Is that correct? In terms of the method of election, you know, you can redraw the district boundaries.

Pessoa: Correct, and you can change the number of districts, but to change, you know, make substantial change to the form of the School Board and its representation and whether members are some members are at large, or a chairman is at large, you need the Charter amendment to do that. In order to effect the 2003 election, you would have to get that, the local ordinance to implement that authority to the Justice Department, I think it's January 4<sup>th</sup> of 2003, and the General Assembly doesn't even convene until January 9<sup>th</sup> of 2003, yeah, January 9<sup>th</sup>, so there is no way we could do it unless we get the Charter Bill through this year.

Mayor: And, you know again, it's a decision that we'd have to make. Mr. Speck, then Mrs. Pepper, then Ms. Woodson do you want to talk as well? Okay. Mr. Speck and then Mrs. Pepper.

Speck: Uh, Mr. Mayor without regard to this specific issue, uh, I want to just speak to a couple of things that I feel very strongly about. Uh, I'm very strongly for the public participating in decisions that are made regarding the electoral process, whether it's School Board or Council. Uh, I think we ought to always be finding ways to create opportunities to hear from the people who participate in this process, who elect us about whether there are ways that we can change or improve what we do. I feel very strongly about that and always have, uh, and most of you know why. I also feel very strongly that anything that we can do at any time, and I will always be for this that gives us enabling authority to make decisions concerning the way we govern ourselves and the way we conduct our electoral process is equally important. I don't think those two objectives are mutually exclusive. Uh, I agree that we didn't hear from a whole lot of people on this specific issue. And, I'm not entirely certain why, whether it was either disinterest or lack of knowledge as to how it would affect anyone in particular or whether it just kind of slipped below the screen. It could any or all of those things and probably more. Uh, and it wouldn't be the first time that something went through, and I think I've spoken to this before that we should be careful about interpreting lack of opposition as meaning support, and that some times we sail through something with no apparent opposition or concern thinking that everyone's happy about it only to kind of get caught unawares at the last minute and then we got to do some, uh, some changes in the way we are making our decisions to ensure that for whatever reason those who feel they have an interest and didn't participate, have that. Some times it means delaying or deferring a decision until people can get comfortable, and some times it means changing a decision. Uh, in this instance, I think we can accomplish both objectives. I do think that the idea of appointing a group that could kind of objectively and independently study some of the proposals that are being made and make recommendations is important. I can't imagine that if we were to ever change anything regarding the electoral process for the school board or for us that there wouldn't be very extensive community involvement at many levels. I think the question really for us right now is a simple one and that is do we while we have the opportunity, and I can't tell you with almost 100 percent certainty that unless this community become strongly divided on this, the General Assembly will approve it. They always have on these matters, and, in fact, are more flexible on this then they had before including providing enabling authority for local government to change the date of our elections among other things if we wanted to. Uh, I don't see any damage being done in providing this. And, if you look at the language of the Charter Bill it is so broad in its scope of what we can do or what we

are allowed to do and not prevented from doing, that all it does is create, frankly, a forum that I think is more effective for debate and discussion about this substance because it lays out what the opportunities are and lets the community really speak to that specifically. So, my recommendation would be to go forward with the Charter Bill, but appoint this group to provide some initial study and evaluation of these recommendations that could be done relatively quickly to determine whether we want to make any modifications or not to the Charter Bill. When the opportunity is there for us to have the authority to govern ourselves, I think we should always seize it.

Euille: Mr. Mayor.

Mayor: Mrs. Pepper.

Euille: I just want to follow with a question to Mr. Speck.

Mayor: Mr. Euille.

Euille: Mr. Speck are you suggesting then that if we move forward to continue the Charter amendment and then create this task force, uh, that should the task force in its due diligence at any time between, within the next 60 days prior to formal action by the legislature, determine and conclude and recommend to this body that this is not a good thing to do that we then move to opt to remove to withdraw the Bill?

Speck: Withdraw the Bill, yes.

Euille: I just wanted to make sure that was part of your...okay.

Mayor: Mrs. Pepper.

Pepper: Well, I like that part of it. Uh, I agreed with a lot that Mr. Euille had said. Uh, but speaking for myself, uh, I really hate being asked to vote on this at all and, uh, I feel that I have just very limited information. We certainly don't have the kind of input that we would have expected from the community. I am beginning to get a trickle of responses from people in the community. Uh, I really feel if it's just left to me, I'm looking down the various paths that this amendment could lead, and I don't want to go with any of those. There's just no, uh, uh, way that I do. So, I'm not very enthusiastic frankly about any of these recommendations. I sort of feel that

the cart is before the horse that you really kind of need to know what it is you want to do and where you want to go and what you need it for, uh, before you are out there asking for it. I want to know what I'm buying. And, uh, so, I feel just very, very uncomfortable about this, and I guess the very best that I could possibly do is what we did the last time and that was we voted to at least put it in, but I was hopeful that we were going to be having first of all the meeting with the Electoral Board and the School Board and that we would have a chance for public hearings, and maybe even a focus group, but or something. I don't know if these are the right five people, and I'll tell you, I share what Bill Euille has mentioned and that is I'd sure hate to get down there in Richmond and have both the NAACP and the Chamber of Commerce just to use two examples, come there and blast us for different reasons. We have no idea whose coming from where. It's really a vote made out of ignorance and I just don't feel good about it.

Mayor: Ms. Eberwein.

Eberwein: Yes, I'd like Tom Parkins, Don Ludwig, and Steve Catzeranis to come forward because I actually have some specific questions that I'd like their opinion on.

Mayor: That's fine.

Eberwein: I don't know, do they need to introduce themselves for the record, Beverly?

Clerk: No, I know them.

Eberwein: I don't have a preference as to who answers these questions. You can divi up as you see fit. Uh, there are a couple of things that, uh, that I had questions on when I first started looking into this when I started hearing sort of the rumors on the street about the changes that would occur regardless because of the 2000 Census. And, one of the issues that came up was December 31<sup>st</sup>, and whether we had, Council that is, had a duty to finish our work by the end of this year based on the 2000 Census results. Now, we've had an opinion from our own staff that that is not the case. Although, I was in a meeting with Mr. Pessoa and he indicated that even if it were the case that the only resolution or the only problem with that is if someone were to bring a suit then we would just say that we are working on it and that would be the remedy that the court would impose. So no harm, no foul; however, I would like the opinion of you gentlemen with regard to this December 31<sup>st</sup> date, and that is not, you know, the date that Mr. Caton, of course, brought

to us with regard to the legislature is another layer to this very complex onion, and believe me at this point it sort of stinks like an onion, but anyway, this very complex layer and Mr. Caton's December 10<sup>th</sup> date is something that I don't think we need to address. We understand that that's due to the legislative schedule. I would like your opinion on December 31<sup>st</sup>. That's my first question.

Ludwig: Well, I'm Bob Ludwig the Secretary of the Alexandria Electoral Board, the three-member board, and it's the position that executes the decisions of the board, and we have Steve Catzerinis who's the vice chairman who has looked into this matter along with Tom Parkins who is the Registrar of Voters here in the middle. I will say that this is more of a legal question in which we have other attorneys which, you know, should be making these decisions, but I'll be happy to call on Steve.

Catzerinis My view, having looked at this, is the statute in question sets a deadline of December 31<sup>st</sup> for redrawing ward boundaries was enacted prior to the legislature's granting the cities the right and the counties the right to elect their school boards. So, the statute was done before there were elected school boards, and it doesn't specifically address elected school boards. But, I feel confident that a court looking at it would determine that the intent was that a city or county would redraw its ward boundaries, its district boundaries for any body under it, uh, by this December 31<sup>st</sup>. That said, what you suggested which is the remedy available to someone who would bring a mandamus action would simply be in my view that the court would order you to do what you are already discussing doing.

Mayor: So, just refollowed question, while I appreciate the, uh, the explanation, uh, other than a law that was enacted prior to the authorization of localities to elect their school boards, do you detect a compelling reason for us to precipitate redrawing of those boundaries by December 31<sup>st</sup>?

Catzerinis: I wouldn't say that December 31<sup>st</sup> is a holy grail date for any policy reason. I do think that there is a logic behind redrawing the districts once during a decade and close to the date of the Census. For one thing as time goes past the Census, population moves, shifts and changes and so when you get to the end of the decade you have the situation where you no longer are confident that you have a one person, one vote compliance in your districts. So, the longer you go with old Census data the less confidence you have in your districts.

Mayor: Well, while I understand and appreciate your response, that's almost an argument for doing a Census every two years. Uh, I think probably the more reasonable response is that most jurisdictions have elections the following November, and in order for, we're a southern state, in order for applications to be made to the Justice Department those districts need to have their lines redrawn in December so the application can go in the early part of the year and go through the pre-clearance process so that they can then be adjusted and in place for a November election. Alexandria, on the other hand, is I think the only, or one of the only jurisdictions in the state that has a three-year term and holds their elections in May. Needless to say, this May is not our time for election and so there is no compelling time period that is forcing our decision and so consequently, we could be a little bit more deliberative in the process rather than rush through a redistricting process. I think we all know how messy the state redistricting process was at least as it related to the House of Delegates. Uh, you have another question.

Eberwein: Yeah, and I want to make it quite clear that the December 31<sup>st</sup> date I in no way advocate making the decision by that date, in fact, I was appalled when I found out that there was even a thought among and obviously various legal minds can differ on this. It does make some sense that you would have to do the redistricting within a certain amount of time of the federal Census result. What surprised me is that we found out so late in order to do something about it, and then, we are literally as Ms. Pepper said, trying to get the horse back in front of the cart. I'm not sure we can because certainly to get deliberative public input we could not make an actual decision on the method of election. We could do the charter change to give us flexibility, but we could not make a decision on the actual method of election. That date is important to me because it was something that I had discussed with members of the Electoral Board and with our City Attorney. Uh, the next question I have, and I know that there is a great deal of difference of legal opinion on this, it is the position of our staff.

Mayor: You don't expect us to solve that great difference.....or is it a great legal opinion?

Eberwein: No, in fact, I might have a follow up question that might deal with lawyers dancing on the heads of pins, but, uh, there is some idea among our staff that we could come back and decide this issue for the 2006 election. And it is my understanding that we may not be able to decide this until another Census is done in 2010. Because of the legislative schedule, and this is

kind of complex, we wouldn't get the results of the 2010 Census until probably 2011. The next school board election that's around that vicinity is 2012. It is absolutely unfair to expect anyone and, in fact, state law may prevent us, prevent anyone from doing this any way, to expect someone to run and find out what district they are going to run in, uh, six, seven, eight months before the election. So, there's a likelihood based on the kind of legislative schedule we've already run into this year, that you would not be able to bring this up again based on the 2010 Census until 2015. And, I would like a comment on that if it's 2006, is your feeling 2012, is your feeling 2015 because I think it probably impacts how we view this into how long you're going to lock the city into a particular system. Which the City may want to be locked into, but I think that we need to go into it with our eyes open, and again, I know that there are differing opinions and it's my understanding that there was at least some consultation with the Justice Department on this. So if someone could answer that question, I'd appreciate it.

Catzerinis: I'm not sure where the 2015 date comes from because it seems to me that, again back to the statute requiring the December 31<sup>st</sup> deadline, uh, that 2011 elections, I'm sorry 2012, that would be the districts would have to be redrawn in time for that election based on the 2010 Census. So, it seems to me that, that you don't get past 2011 in any event. With respect to redrawing the districts between now and then, one of the purposes behind that statute as I understand it based on the record at the time that statute was elected, was to avoid a situation where a council, and again, realize that this statute was drafted about councils redrawing their own boundaries, it didn't contemplate elected school boards, but they wanted to avoid a situation where you redrew your districts before every election. Then you would come back for a city that elects every three years every third year and come back and draw new districts. So, there is a policy reason not to redraw the districts over and over again during a decade. If a charter change was enacted, that could provide the impetus for redrawing the districts at any point. The further, in my personal opinion, my personal legal opinion, the further you get from the charter change in time the less compelling your argument is before a court that you are doing that for that reason.

Eberwein: My understanding is the reason that Virginia is under the supervision of the Justice Department is, of course, we're the Old Dominion and uh that has a bit of baggage with it. Uh, and the idea between saying that you redistrict on the basis of a Census that occurs every ten years is, again to re-emphasize your point, to prevent what apparently occurred quite regularly

in the past and that is that when a local government in the south, and these are as far as I know exclusively southern states that are being supervised, No? OH really?

Catzerinis: No, counties in New York and Arizona are also included.

Eberwein: Oh, interesting, uh, well anyway, I didn't know that. Uh, but what it is to prevent someone from saying, "Geez, I don't like the results of this election. I'm not going to wait until the next Census. I'm going to come in and change the method of election in between the Census because I just don't happen to like the results, and in that way I can somehow disenfranchise people through rejiggering things." Uh, and it is my understanding that the Justice Department would look quite askance at that, and that is why, and you're telling me 2012, but what I understand your opinion to be, and that's all I'm trying to get out on the table, is that you do not believe that we can come back and say 2003, 2006, 2009, hey, we're going to change it.

Catzerinis: I think the Council has a lot of authority to draw these districts how they want within the guidance of the charter. I think there is some good policy reasons that argue against multiple redistrictings in a decade, and I think that there are a lot of attorneys in this region who have expertise in litigating those issues and there's a possibility that you would find yourself in litigation if you came back multiple times redistricting.

Mayor: Any other questions?

Woodson: Any other questions? I have comments.

Mayor: Pardon me. Well, do you have any other questions or comments?

Pepper: Well, I have just one last question and that is, if we pull this out as in #1 and decide a couple of weeks into the session, uh, that we've heard back from everybody

Mayor: No, you can't do it. The Charter Bill has to be introduced the first day of the session.

Speck: Mr. Mayor.

Mayor: Mr. Speck:

Speck: Uh, I'm just sort of, I know you're gonna get nervous when I say I've been musing,

Mayor: Oh God, well, I tell you what, it's 9:30. We're only going to muse for another five minutes.

Speck: Uh, okay. It wasn't a long muse. The uh, I mean one of the things that uh is happening is that I think people may be over interpreting, but that happens a lot if they don't have all of the information, and uh it's sort of like the issue of going from nine to seven on the Housing Authority, which I happen to agree with. Uh, and, if I recall, the legislation on that is drafted in such a way that Council has by ordinance the authority to make it seven or nine, between seven and nine. Uh, now, I agree with that, but if I thought that some how that was an effort to try to get certain members off the Housing Authority, I guess I'd argue against doing that, but clearly what we see is that's an opportunity for us to structure something and to have the latitude to that without having to trot down to Richmond. Uh, it does seem to me that as we're debating this that, uh, it might be helpful to look at the language that's been drafted here because it doesn't seem to be quite as onerous as I think people are getting anxious about. And, the language says: "That the supervision of schools in the City of Alexandria shall be vested in the school board consisting of between seven and nine members as provided by ordinance adopted by the council." That's part of the new language between seven and nine. It goes further to say: "The school board members shall be elected at large or from election districts" That's new language. "or a combination thereof as provided by ordinance, and shall establish the number and boundaries of the election districts, if any. The ordinance may provide for the election of the school board chairman by the voters at large." Now, if somebody believes that that is a subterfuge for doing something they don't like, I can't really argue that. I mean, you know, if somebody sees more into that than I do, so be it, but it does seem like what it has done is given this community a certain degree of flexibility to be able to make changes as it chooses. So, I'm going to make a recommendation, since there is really no action before us right now, I'm going to recommend a couple of things. One is that we go forward and invite, designate a group to advise the council and you can expand it if you choose to, but also that we specifically docket this at our first legislative meeting in January as a public hearing item and specifically ask for people to come and talk about it, advertise it, let people know, encourage people to come and tell us if we're missing something. I have to say, and I'm obviously not on anyone's "A" list, I haven't gotten a single call or e-mail,

or memo which means that either people feel that I am a lost cause and hopeless or it may be, which is certainly possible, or that it's hitting certain

nerves but not as broadly as we think. Let's find out. I'm making that a motion.

Mayor: We have a motion by Mr. Speck to appoint an advisory group and also docket this matter for public hearing, now, you said at the first legislative meeting,

Speck: Legislative meeting, early on.

Mayor: I just wanted to reaffirm that.

Speck: And by inference, I might say, that if we decide that we don't want to go forward with this Charter Bill, we can pull it.

Mayor: You can always pull it. All right. We have a motion by Mr. Speck, is there is second to that motion?

Eberwein: Second.

Mayor: Seconded by Ms. Eberwein.

Eberwein: Question.

Mayor: Question and then Ms. Woodson wanted to make comments.

Eberwein: Later on this evening we will be, uh, trying to decide a date for the Electoral Board to brief us on some of the things that they have looked at whether there is a charter change or not. Uh, I want to make sure that that briefing occurs before the public hearing because I believe since we are inviting as many interest groups from the community as we can to that meeting which is going to be, well at least it is proposed for January 16, that our legislative meeting occurs after that so that people have some information, some drawings, some maps, a briefing from the Electoral Board about what the heck we are talking about.

Mayor: Do we have a work session that's scheduled prior to the meeting on January the 8<sup>th</sup>?

Evans: No, Mr. Mayor.

Mayor: Okay.

Speck: We're talking about the School Board/Electoral Board meeting to be the 16<sup>th</sup> and the legislative meeting would be the 8<sup>th</sup>, then make this public hearing item for the actual public hearing then. No, that would still be before this meeting so make it the second legislative meeting in January.

Mayor: No, we changed the public hearing date to the 26<sup>th</sup>.

Speck: Make it the public hearing date, January 26<sup>th</sup>?

Mayor: That's acceptable.....

Speck: No?

Caton: The public hearing date isn't until the end of January by then, you know, the Senate may well have taken action on the Charter Bill.

Pessoa: Mr. Mayor. We can still ask that it be amended to delete this in the legislative process.

Caton: That's true.

Mayor: Okay.

Caton: But it.....

Mayor: Let's get some other comments and then, you know, quite frankly I think we're sort of wringing out the dry rag on this thing. We got to get going. Ms. Woodson.

Woodson: Thank you, Mr. Mayor. It seems to me with all of the attorneys, and advisors and questions and all that we've had here thus far for this what is positioned as a simple thing, it is clearly not simple. We are clearly confused, at least I'm willing to admit that I'm confused, and I think that some of my colleagues may honestly admit that they are confused or they would not have been asking some of the questions. We've had an awful lot of dates and thoughts and ideas thrown out at us. So, it is little wonder that there has been no commentary by citizens prior to this point. I think the

very fact that the original legislative package that came to us did not include this charter amendment may also be a reason why very few people responded, but that being neither here nor there. I have some real questions about this whole business about flexibility, and I'm not so much as asking a question of any of the gentlemen at the desk here, but I am asking a question, maybe it's a rhetorical question. It was only a few years ago, not very many, that we went from appointed to elected school board, and I question why we didn't have this flexibility that we're so desirous of now added then. What has changed? I don't see that much of anything has changed. I can't imagine that we are more anxious to be free of Virginia's rule, uh, General Assembly's thumb then, uh, now then we were then, uh, I'm just not real clear why this whole issue of local authority has just now come up because I think it was an issue then, and I don't know why at that time the flexibility wasn't considered. I question what the sense is, we've spent I don't know how long, ten-fifteen minutes, talking about something that has absolutely nothing to do with flexibility. Whether the Census is today, next week, five years or never, the issue of flexibility and local authority have nothing to do with the Census, but let me tell you what the Census has to do with and this is what bothers me. The Census is clearly going to redraw lines. No question about it. We've got a higher population in the west end. So, the Census is going to redraw lines. In the very redrawing of the lines, we're going to have some changes in political boundaries based on political bases and that to me is a question. I don't see what that has to do with the flexibility that we talk about, but it does concern me when we say that there are no agendas here. It seemed to me when I looked at this that the Census and the concerns that have come up over the Census is very definitely an agenda. Why should any of us be debating the Census boundary changes because they don't have any impact on this. Yet it keeps entering into this dialogue and I have to wonder why. It seems rather self-serving because it is a political base that is being adjusted and let us not fool ourselves politicians are interested in maintaining their political base. That concerns me. Now, we're not school board members, those political bases ought not to affect us, of course, because we are not by district, but that's not to say that we don't have allegiances or concerns for school board members where this political base will be affected. So, that concerns me. I think that this charter change is conveniently added at the way it was added. It seems to me that we could have had a greater amount of information provided to us much earlier. It seems to me that as we are talking very lofty of having citizen involvement, we are making decisions and then asking the citizens to comment on the decision that we made as opposed to making certain that we put out the

effort to involve citizens in something as important as this. I mean the Justice Department isn't watching us because they have nothing else to do. They are watching us for a reason. And when they look at the effect that appointed school boards, that the loss of appointed school boards had on the elected school boards, then it seems to me that their only, you know, evaluation of that would be retrogression. We have not gone forward. We've gone backwards. And the same thing is very likely to happen when we make a change to at large. Now, let it not be said that I have a problem with the number of school board members. I don't. If we want to reduce it to five, I don't care. It could be reduced to whatever number works for the school board. As far as the Housing Authority, I happen to have sat on that Board, and we actually have discussed it. So, reducing the board was something that came up and, you know, we don't have to do that either, but that was something we actually discussed. I don't have any problem with the change in the size. The problem that I have has to do with these hidden agendas that we just don't have here. I believe that we did this at the last minute because it's easier to force that in the presence of deadlines. I find deadlines to be a noose around my neck. I don't like being told that you got to vote on something right now when I've had an inadequate amount of time to consider it, to review it, to consider its effect. That's the case here. And, to tell me to, oh well, don't worry, you go ahead and do this and you will be able to think about it later. In my way of looking at things, it is a lot easier to shove something in then it is to shove it back out. Once it's in there, it's going to be far more difficult. Now, if we are so interested in citizen involvement, it seems to me, again, that we would have made a greater effort to involve them before we voted, before we got to this point. Now, I'm very glad to see that people are interested in other things. Some of the comments that have been made here this evening are comments that I made when we last considered this. I appreciate the Mayor's effort to come up with some workable solutions. Solution number one seems to me to be the most logical solution. I'm not real clear what this big rush is. I appreciate that we might want to have some change effective for 2003, but I've yet to be told why we need that change. I mean why are we rushing head long into having that change in 2003.

Mayor: Well, I think the answer is, is to give the Council flexibility. You know, for example, if we get two months down the road and you don't like what you see and you are going to be constrained. You mentioned a few minutes ago that you didn't like the constrain of deadlines. You will be, or I think the Council potentially will be constrained by the law, in the inability through not having the charter amendment to effect any kind of change. And, you

know, I'll be real honest with everybody, this is not, I don't think, you know the top issue that is confronting the city right now. I got a whole host of those issues I can bring out here, and you know if we want to continue to keep it the way it is, fine, but I think we also have to recognize that number one, you know, it is what it is and that constrains us. Number two, if we wanted to make a change in May 2003 without the charter amendment, we can't, and, you know, which really pushes us to 2006. You know, we talk about deadlines and deadlines forcing decisions, that's one of the reasons why we have deadlines. You know, again, I see this issue purely as one of local autonomy, others might have differences of opinion.

Woodson: And I don't disagree with you. I can say that I see this as local autonomy. The fact is, however, I see this as the emperor as having no clothes on. Some of the issues that have been brought out, there have been so many efforts to deny and push them aside, and no, no, no, that's not the case, but they keep coming out. I mean it seems to me we have so many agendas we're tripping all over each other trying to say we don't have any agendas here. Now altogether, if it's all the same to you as you said, Mr. Mayor, that, that, you know, there are other things that are more important, we've spent an awful lot of time talking on something that's not important, so therefore, I have to disagree with you respectfully and say that it must be important to somebody. It's important to me and maybe it's not important to everybody up here, or maybe it's not as important as perhaps some other things are, but it's important enough. And the fact that the Justice Department is watching us tells me that it's important to more than just me. Now, the task force makes sense to me, and I like the idea of considering it. This rush to 2003, maybe it's 2006, okay, fine since we aren't necessarily going to make that change, then I don't know what the heavy rush is to making the change this instant in the absence of having voters deciding that this makes sense. I mean we had the option of having a referendum kind of vote as I understand it, and we held a public hearing instead. Perhaps people would be interested in it. Perhaps they wouldn't. I don't know, but I like the idea of having a task force, whether or not this is the correct group of people I don't know. I suspect that it might make sense to bring in some of the bodies that considered the election versus the appointed school board in the first place. There are several organizations that, you know, were involved in that. So, perhaps they should be also considered. I question the electoral board in this in this fashion. I'd like to seem them as a convener or facilitator, that might...

Mayor: That is actually why I've included them

Woodson: As a convener or as a facilitator?

Mayor: Well, as convener, as a facilitator, I mean they bring a certain body of knowledge that other groups do not have.

Woodson: Exactly, they bring that body of knowledge, but I'm not sure they should be in a position of making those decisions. It makes sense for them to in a facilitator/convener kind of fashion, you, you know, hit it right there, but to be in a voting advisory kind of capacity for this particular issue I'm not real clear that that makes sense. So, if I was to see something different happen, since I did not vote affirmatively on the issue, I can't bring it up, but if I was to bring it up and there was only one alternative to support, the alternative would be alternative number one which rescinds this as it stands, forms this task force for the purpose of bringing the citizenry into this process before the decision is made instead of after the decision is made and then should this be the decision that the city wants to make, not just a few of us, but the whole entire city well then we move forward on it at the next legislative session, and you'll get my support on it. But, you won't get my support on moving forward in the absence of having the citizens make that decision.

Mayor: Yeah, and I appreciate that and, I guess, again, the problem is that the next legislative session is after the introduction date.

Woodson: And I appreciate that, but I guess what I am suggesting is that I don't understand why we are rushing this period. Why do we need to rush to 2003.

Mayor: Well, again, I

Speck: Why rush any of the things that we have in the Charter Bill. I mean there is no emergency about seven to nine on the Housing Authority or

Woodson: Then take it out, Mr. Speck.

Mayor: All right, all right, all right

Speck: Mr. Mayor, .....

Mayor: No, Mr. Pessoa, Mr. Pessoa wanted to make a comment and then we're going to have a vote.

Speck: I want to actually change my motion.

Pessoa: Mr. Mayor, I was just going to add the historical perspective with respect to flexibility. This in essence restores some of the flexibility that Council had when we first adopted an elected school board because at that time we could have gone at large as we did by district or by combination. After we exercised that discretion, I guess it was seven years ago or whatever, the way the law developed and our charter change we sort of got frozen into this scenario we now have with nine members and districts. So, this is really intended to restore some of the flexibility that Council initially had and no longer has.

Mayor: Okay. Mr. Speck and then we're going to vote.

Speck: Just, uh, I'm fine, but the motion, there was some question about the dates, uh, I think we ought to stay with that first legislative meeting, uh have a public hearing and hear what anyone has to say. We'll still have this coordinated meeting and if we decide we want to change it to pull it, we can pull it. So, just keep that first legislative meeting.

Mayor: Okay, we have a motion and a second. Uh, Ms. Eberwein.

Eberwein: I don't know if this will answer the question, but and it probably won't, and then I'd like to make a comment. I do plan on supporting this. Uh, when I, when I first started looking into this in October or November, uh some of the dates were very surprising uh to me. We do have some dispute as to whether we actually could go forward in 2003 or 2006 or whether we would have to wait to 2010 for the uh ability to change if we lock ourselves in now. The only group that can really answer that question is the Justice Department. Um, I don't know if the maker of the motion would accept a friendly amendment that we actually try to get some sort of, maybe this isn't feasible, but some sort of opinion from the Justice Department about that 2006 potential. No, no, just leave it along. All right. All right, just let me make my comment then. Uh, and this has to do more with City staff because I agree that the timing of this is very poor and maybe Council should have picked up a lot earlier on the fact that with the Census would come mandated changes to the boundaries. I think to some extent we probably none of us were really thinking about it because we are not elected by districts, we're elected at large. In talking to the City Attorney recently, uh, actually this past Friday, I did find out that there was a meeting back in March, uh, where this topic was raised with City staff. Uh, the Justice

Department oversight was the main topic of the meeting, but this particular issue was specifically raised. We could have told, if we had know about that meeting, we could have told the board at that time to analyze the options before us, and we could have gone to citizens for input over the summer. And this Council did not have that opportunity. This failure, and I view it as such, I view it as a failure on the part of City staff to inform the Council of this information is unacceptable. It was vital to our decision making process in my opinion. I also think, and I'll talk about dancing on the head of the pin again, this issue is too important to dance on the head of a legal pin. We have people saying yes to this date, no to that date, yes you can in one year and no you can't in another year. We don't really know. But in the future, I would expect staff to provide the Council with a memo to discuss the various legal views that they have been apprized of and make us aware in a timely fashion so that we can reasonably discuss this with the community at large. I consider this to be a management failure, not a legal one. We aren't up here as a bunch of nattering nay bobs to be directed by long-term staff who make decisions on what they should or should not present to this Council. I feel very strongly about this. I share Mr. Speck's feelings about the electoral process. We are elected by the voters. I think they take their franchise very seriously and we take our representative capacities very seriously. And, I would ask that in the future when staff gets differing legal opinions on something that is this important to a decision making process and has the potential to be this sensitive, that we get the information as soon as it is brought to their attention which apparently was back in March. And, at that time, if it was disagreed, we should have at least had an analysis on the legislative schedule and how that would impact our decision making process. Because I believe this whole thing was unnecessary.

Manager: I'll have a conversation with Ms. Eberwein at another time. Let me just say that there is a confusion and I don't know where the confusion is coming from between a meeting in March and a meeting on October the 1<sup>st</sup>. And, I'm going to leave it at that. I'm not sure where the source of information is coming from. There was a meeting in March and it was on the opt out provision, not on redistricting and that's all I'm going to say, and that's all I'm going to say.

Woodson: Mr. Mayor.

Mayor: All right, now, uh, I'm going to call the question. I'm going to call the question. We are spending much too much time on this. Uh, normally I uh

and my comments have been in support of the motion. Normally, I uh, I uh, uh, am supportive of local autonomy, I am quite frankly fed up with the whole matter. We should just shelve it and go about our business. I'm going to vote against the motion. We have a motion and a seconder is there any further discussion?

Speck: Mr. Mayor, I withdraw the motion. I don't think that this is one that ought to have a divided Council.

Mayor: Well, I don't, I don't think so either. All right the motion has been withdrawn. Is there, uh, Mr. Euille.

Euille: I move that we rescind the charter amendment and appoint a five-person task force to examine the issue and to provide advice to the Council.

Mayor: A motion by Mr. Euille. Is there a second?

Woodson: Second.

Speck: Just drop the five-member and let the Mayor decide.

Mayor: Well, that's fine, I mean, you know, five members with discretion to add

Euille: Flexibility.

Mayor: Don't say flexibility, don't say flexibility. We have a motion and a second is there any future discussion. All those in favor say aye. Those opposed no. Abstain.

Woodson: Are you angry with us Mr. Mayor?

Mayor: No, I just think, you know again. We've spent an hour at the previous meeting, we have now spent another hour talking about something, you know and you know, all we're talking about is enabling ourselves to make a decision.

Woodson: And I agree with you.

Mayor: And we've spent much too much time on it. And I'm not going to put the Charter Bill at risk. The motion passes and there was one abstention.

Woodson: Who abstained?

Mayor: Ms. Eberwein abstained.

Woodson: Mr. Mayor.

Mayor: Is it about this past issue?

Woodson: Well, yeah, because I think that there's no way that staff could have told us something in March that we might have needed to know in November when somebody brought something up. They're not clairvoyant. So, I support staff on this one. I have an oral that has nothing to do with this.

Mayor: And so do I, since I started kicking off orals, I'm gonna, no I got one more and it's going to be quick and hopefully not controversial.

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LEGAL ADVERTISEMENT



NOTICE OF PUBLIC HEARING ON  
AND CONSIDERATION OF PROPOSED  
AMENDMENTS TO THE CHARTER OF  
THE CITY OF ALEXANDRIA, VIRGINIA

A public hearing will be held by the Alexandria City Council on Saturday, November 17, 2001, at 9:30 a.m. At the hearing, citizens will have the opportunity to comment on whether the City should request the Virginia General Assembly to amend the Alexandria City Charter to provide:

- (1) authority for the City Council to adopt an ordinance to increase the local recordation tax (paid when real estate is transferred from the owner to another), subject to referendum approval by the voters in the City, and provide that the additional revenue be used for the acquisition and preservation of open space in the City;
- (2) authority for the City Council to adopt an ordinance to reduce from two acres, to one-quarter of an acre, the minimum size lot which is eligible for a reduction in real estate taxes, as a lot devoted to open space use;
- (3) authority for the City Council to adopt an ordinance to reduce the number of members comprising the Alexandria Housing Authority Board of Directors from nine members, to five to seven members, as determined by ordinance;
- (4) authority for the City Council to adopt an ordinance providing for the election by the voters of the Alexandria School Board, comprised of between seven and nine members, elected by district or at large, or in some combination thereof, for the at large election of the board chairperson, and for the establishment of election district boundaries, and
- (5) authority for a newly elected City Council to conduct its first meeting on July 1st following the election, or on the first business day after July 4th, if July 1st falls on a Saturday or Sunday.

This description of the proposed charter amendments is intended merely as a summary. The exact nature and detail of the amendments, if approved by City Council, will be set out in the text of a Bill to be transmitted to the General Assembly. Anyone who has questions with regard to the proposed amendments may call the Legislative Director, Bernard J. Caton, at (703) 838-3828.

Philip Sunderland  
City Manager

November 1, 2001 ROP-Alex-20502819

Legal Notices



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